

**CT Sentencing Commission (CSC)**  
***Legislative Subcommittee***  
***Meeting***

*CT Appellate Court, Attorney's Lounge*

Thursday, August 11, 2011

9:30 AM

***Members In Attendance:*** Hon. David Borden (*Subcommittee Chair*), Mike Lawlor (*Commission Vice Chair*)

***Also Participating:*** Andrew Clark, Jason DePatie, Robert Farr, Cathy Foley-Geib, David Norman, Chris Reinhart, Sarah Russell, Rick Taff

## **MINUTES**

### **I. MEETING CONVENED**

Justice Borden called the meeting to order at approximately 9:40 a.m.

### **II. APPROVAL OF THE MINUTES FROM THE MEETING OF JUNE 22, 2011**

Upon a duly made and seconded motion, the minutes were **approved by a unanimous voice vote.**

### **III. PROPSALS FOR THE 2012 GENERAL ASSEMBLY'S LEGISLATIVE SESSION**

#### **A. UPDATE- Conforming the penalties of unclassified misdemeanors to the penal code (Bob Farr)**

Bob Farr reported the Classification Working Group has had two meetings. At the most recent meeting, Rick Taff presented on the classification categories: offense, crime, misdemeanor and infraction; and provided a brief legislative history on motor vehicle violations. The working group discussed the mail-in option for fines and the statutory classification requirements for collecting fines above certain thresholds. It is estimated that there are about 600 offenses that are fine-only misdemeanors, about 527 fine-only violations, and about 215 fine-only infractions. The working group recognized that fines are also subject to fees which may be more than 100% of the fine. Further discussion questioned the use of bond forfeitures by the Judicial System and identified it as a subject for future inquiry.

Reclassifying some misdemeanors as violations was identified by the working group as a priority. This would alleviate some stress on the Judicial System by replacing court appearances with pay-by-mail fines. A key element in reclassifying misdemeanors as

violations may be a graduated sanctions system. For example, while the first offense may be a violation that is sanctioned by a mail-in fine, a repeated offense would make it a misdemeanor with possible jail time. The challenge in implementing a graduated sanctions system is that there would have to be a database of previous violations for each offender that the police could retrieve on demand.

Future steps for the working group include the creation of a “Class D” misdemeanor and reclassifying some misdemeanors to violations. The working group agreed a “catch all” statement should be drafted to allow judges to accept community service as payment for misdemeanor fines if the person is unable to pay due to financial distress. Also addressed was the “Leap Year” issue. The working group decided it would be best to define a year in days rather than months.

#### **B. UPDATE- Legislation for juveniles convicted in adult court to seek sentence modification (Sarah Russell & Linda Meyer)**

Sarah Russell discussed the updated memo that Quinnipiac Law School prepared and outlined the key elements of the draft legislation. She reminded the subcommittee that at its last meeting, the consensus was to keep things as simple as possible but address the issue that emerged out of the Supreme Court’s *Graham v. Florida* decision (2010). Sarah Russell explained that the draft bill is modeled after legislation introduced in California. She emphasized that if legislation is not enacted allowing juveniles convicted in adult court to seek sentence modification, Connecticut could open itself up to a constitutional challenge. The subcommittee requested more specific information on who would be affected by the proposed legislation.

Further discussion focused on the importance of reaching out to the Prosecutor’s Office and getting Kevin Kane’s opinion before the draft legislation is brought to the Commission. The subcommittee also felt it would be important to reach out to victim advocates to explain the legislation. Two changes were approved by the subcommittee. The first was to relocate the line addressing the victim to the beginning of the document. The second was to leave the lines for the number of times a person convicted as a juvenile in adult court could seek sentence modification and for minimum number of years which must pass in order to seek sentence modification blank for future discussion.

#### **C. UPDATE- Legislation authorizing judges granting provisional pardons (Andrew Clark)**

Andrew Clark reported that the University Partnership recently met with the Board of Pardons and Paroles Chair, Erika Tindill, to gain her perspective regarding the proposal to allow judges to grant provisional pardons. Two recommendations emerged from this

meeting. The first was to change the language of the bill from “provisional pardon” to “certificate of employability” to clarify the intent and purpose behind the proposal. Next, Erika Tindill proposed it would be a good idea to look further into New York’s implementation and possibly convene a focus group of Connecticut judges to solicit their thoughts on authorizing courts to grant provisional pardons.

The subcommittee briefly discussed the housing component of the legislation and decided to postpone further discussion of the provisional pardon recommendation because of its complexity and the fact that too few members were present to move the item. However, it will be on the agenda for the next meeting. It was pointed out that the risk in holding off on presenting this recommendation to the legislature is that another version could emerge without the benefit of the subcommittee’s thoughtful process.

**D. Addressing anomalies in the penal code involving the minimum sentence of the kidnapping statute and sexual assault in the fourth degree (Justice Borden)**

Justice Borden briefly discussed the memos prepared by Judge Devlin and Rick Taff concerning the minimum sentence of the kidnapping statute and sexual assault in the fourth degree. The issues related to these anomalies are more complicated than previously anticipated and will be presented to the Sentencing Commission.

**IV. OTHER BUSINESS**

The next meeting of the Legislative Subcommittee will be Monday, September 26, 2011 at 9:30 a.m. in the CT Appellate Court Attorneys’ Lounge.

**V. MEETING ADJOURNED**

Meeting adjourned at approximately 11:18 a.m.